

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ARNO ENZERINK,

Plaintiff,

MEMORANDUM & ORDER

20-CV-292 (EK) (CLP)

-against-

CRANBURY OVERSEAS LIMITED LIABILITY
COMPANY,

Defendant.

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ERIC KOMITEE, United States District Judge:

Plaintiff, a photographer, alleges that Cranbury Overseas Limited Liability Company ("Cranbury Overseas") featured one of his photographs on its website without permission, in violation of 17 U.S.C. § 501. The Defendant failed to appear or otherwise defend in this action. At the Plaintiff's request, the Clerk of the Court entered a Certificate of Default on June 9, 2020. ECF No. 13. On July 30, 2020, the Plaintiff moved for default judgment, ECF No. 16, and the Court referred that motion to Chief Magistrate Judge Cheryl L. Pollak for a Report and Recommendation ("R&R"). See Minute Entry dated August 3, 2020.

On February 26, 2021, Judge Pollak issued an R&R recommending that the Court grant Plaintiff's motion for default judgment and award Plaintiff \$30,000 in statutory damages and

\$1,575 in attorney's fees and costs. ECF No. 22. Neither party has filed an objection to the R&R and the time to do so has expired. 28 U.S.C. § 636(b) (1); Fed. R. Civ. P. 72(b). Accordingly, the Court reviews the R&R for clear error on the face of the record. See Advisory Comm. Notes to Fed. R. Civ. P. 72(b); accord *Gesualdi v. Mack Excavation & Trailer Serv., Inc.*, No. 09-CV-2502, 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010).

Finding no error, the Court adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b) (1), with one modification: I reduce the award of statutory damages to \$17,500. Cranbury Overseas is a business involved in agricultural commodities "and therefore not in the publishing industry, making its infringement less well-informed and blameworthy." *Wexler v. Synergy Prep, Inc.*, No. 20-CV-2672, 2021 WL 260635, at *4 (E.D.N.Y. Jan. 3, 2021) (quotations omitted). This Court very recently issued another order in a functionally similar case, awarding that same amount of statutory damages on the same reasoning, and this uniformity appears appropriate in light of the similarity of the two cases. See Order adopting Report and Recommendation, *Prokos v. IQ Homes & Co. Inc. et al.*, 20-CV-1220 (Mar. 16, 2021), ECF No. 24.

Therefore, the Court grants Plaintiff's motion for default judgment and awards Plaintiff \$17,500 in statutory damages and \$1,575 in attorney's fees and costs. The Clerk of

Court is respectfully directed to enter judgment and close this case.

SO ORDERED.

/s Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: March 19, 2021
Brooklyn, New York